IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13018 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.S.SHAH
and
HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UNION OF INDIA & 1 - Petitioner(s)
Versus
G.M.VOHRA - Respondent(s)

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Appearance :
MS PJ DAVAWALA for Petitioner(s) : 1 - 2.
MR PH PATHAK for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.S.SHAH

and

HONOURABLE MR.JUSTICE K.A.PUJ

Date : 07/08/2007
ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE M.S.SHAH)

Rule. Mr PH Pathak waives service of rule for the respondent. In the facts and circumstances of the case, the petition is taken up for final disposal today.

2. This petition under Articles 226 and 227 of the Constitution challenges the order dated 16.3.2007 of the Central Administrative Tribunal, Ahmedabad Bench rejecting Review Application No.8 of 2007 with Misc. Application No.90 of 2007 in Original Application No.614 of 1997 on the ground that the review application was filed beyond the period of limitation and that the applicant-Union of India had not shown sufficient cause for the delay in filing the Review Application.

3. It is true that Original Application No.614 of 1997 was disposed of by the Tribunal by its order dated 31.7.2002. However, when Special Civil Application No.11638 of 2003 challenging that order of the Tribunal came up for hearing, this Court permitted the Union of India by its order dated 4.8.2006 to file a review application before the Tribunal within one month and further observed as under:-

> ".. if the petitioner approaches the Tribunal along with an application for condonation of delay within one month from today, then we are sure that after condoning delay, the learned Tribunal will consider and decide the review application on merits strictly in accordance with law."

The Union of India thereafter filed Misc. Civil Application No.136 of 2007 before the same Division Bench for extending the time-limit of one month. That application came to be rejected by the Division Bench on 7.2.2007 and thereafter the Union of India filed the review application on 16.3.2007. By the impugned order passed on the same date, the Tribunal rejected the application for condoning delay on the ground that the review application was not filed within the time-limit of one month granted by this Court on 4.8.2006. The Union of India is, therefore, before us.

4. Ms PJ Davawala with Ms Jaini Sheth for Union of India have submitted that once this Court had passed order on 4.8.2006 permitting the Union of India to file the review application within one month, in the application for condoning delay in filing the review application, only the period from 4.8.2006 till 16.3.2007 was required to be explained and not the prior period. It is further submitted that in paragraph 4 of the application for condoning delay, it was specifically pointed out on behalf of Union of India as under:-

> “4. It is submitted that the applicants' panel of advocates have undergone change during June 2006 and Ms Paurami B Sheth who was earlier appearing for present applicants was not a Counsel for the present applicant and therefore the order passed by the Hon'ble Court on 4.8.06 was not brought to the notice of the present applicant. The applicants made the alternative arrangements by filing Vakalatnama by Mrs PJ Davawala in SCA No.11638 of 2003 on 19.7.06. But somehow or the other the name of Advocate was not shown on the board when the matter was taken up for final hearing on 4.8.06. It was therefore not within the knowledge of the applicants that the aforesaid order has been passed with the observation to move Review Application before the Hon'ble Tribunal within one month. It is therefore submitted that there is a delay in moving the present application for Review of the earlier order passed by the Tribunal on 31.7.02.”

It is also submitted by the learned Standing Counsel that it is true that the application filed by them for extension of time-limit was rejected by the Division Bench of this Court on 7.2.2007 but the underlying cause of delay in filing the review application was the same i.e. Union of India was not informed about the order dated 4.8.2006 on account of change in the panel of advocates and that

Ms Paurami B Sheth who had earlier filed her vakalatnama for Union of India prior to 4.8.2006 has ceased to be the Standing Counsel.

5. On the other hand, Mr Pathak for the respondent- original applicant before the Tribunal has opposed the petition and submitted that no satisfactory explanation is given for the delay in filing the review application.

6. It is the case of Union of India that the change in the panel of advocates took place from 1.7.2006 and that Ms Davawala had filed her vakalatnama in Special Civil Application No.11638 of 2003 on 19.7.2006 but her name was not indicated in the cause-list when the Special Civil Application was notified for hearing.

7. Having regard to the fact that no negligence can be attributed to the Union of India as such and the communication gap arose on account of the change in the panel of advocates, we are of the view that the delay in filing the review application deserves to be condoned.

8. We, therefore, allow this petition and condone the delay in filing review application before the Central Administrative Tribunal. The Tribunal shall now proceed to hear the review application on merits.

We accordingly allow the petition in the above terms.
Rule is made absolute with no order as to costs.

(M.S. SHAH, J.)

(K.A. PUJ, J.)

zgs/-